

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)

v.)

CRIM. NO.17-10066-IT-10

JUAN MANUEL TEJADA-SERRANO a/k/a JOSE ARROYO)

**MOTION, FILED PURSUANT TO COURT ORDER OF DECEMBER 8, 2017, TO
MAINTAIN STATUS QUO REGARDING SENTENCING**

Now comes the defendant in the above-entitled matter and, filing this motion in response to the Court's Order (Saris, J.) ordering same, respectfully requests that this Honorable Court maintain the status quo regarding his sentencing and assigns as reasons therefor the following:

1. On or about December 6, 2017, due to the sudden unavailability of the Court (Talwani, J.), the Court (Talwani, J.) cancelled the defendant's sentencing which was then scheduled for Wednesday, December 13, 2017.
2. On Friday, December 8, 2017, at about noon, another this Court (Saris, J.) initially scheduled a status conference on the same date at 3:00p.m. but thereafter canceled said hearing and ordered undersigned counsel to file a motion by 12 noon on Monday, December 11, 2017.
3. The defendant, held without bail in the instant case but sentenced to a 21 month sentence in docket no. 16-10059-GAO which he is currently serving, has serious health conditions.

12/11/17
allowed. the parties shall
contact Judge Talwani's decision to
reschedule. Peter B Saris
Emergency Judge

4. On Sunday December 3, 2017, at Massachusetts General Hospital (MGH), two days after his serious operation because of his life-threatening heart condition in which the LVAD device was removed, the defendant met with the undersigned.
5. The defendant, upon information and belief, has been an MGH patient since October 23, 2017 to present.
6. The defendant, in the opinion of the undersigned, was at the time of the meeting very weak, appeared tired and, toward the end of the 2 hour meeting, appeared to have difficulty concentrating on some of the issues that were being discussed but appeared to have no difficulty understanding the issues.
7. The defendant, in the opinion of the undersigned, is too sick and weak to be transported to the federal courthouse for sentencing from either MGH or FCI Wyatt (where he had been located after his sentence by Judge O'Toole before his admission on October 23, 2017 to MGH).
8. As a result of the undersigned's discussion with the defendant about his stamina and strength to appear for sentencing at the federal district court, the undersigned opines that if sentencing must be imposed before December 31, 2017, sentencing should occur at MGH, but if sentencing can be postponed until after December 31, 2017, the defendant would likely be able to be transported to the federal district court for sentencing.
9. As there is no present date set for sentencing, the defendant requests that the status quo remain in place.

10. If the undersigned learns that the defendant is to be removed from MGH, he can notify the Court who may then be able to schedule the sentencing.
11. The undersigned notes that the final PSR was produced and sent to the undersigned by email on December 7, 2017 and that it contains all of the undersigned's objections to the PSR.
12. Accordingly, but for the ill health of the defendant and the current unavailability of the Judge to whom this case is assigned, nothing appears to prevent a sentencing rescheduling for the first week of January, 2018.
13. The undersigned notes his current availability for January 3, 5, 8 and 9, 2018.
14. The undersigned notes however that he will be out of country from January 14, 2018 through February 4, 2018 and would be unable to resume court appearances until February 7, 2018.
15. The undersigned notes that there is no objection to waiting until the Court becomes available to hold the sentencing, even if the sentencing has to occur after February 7, 2018.
16. The undersigned notes further that there is no prejudice either to the Government or to the defendant or to the Court by the allowance of this motion.
17. The undersigned notes that, in preparing this motion ordered on Friday December 8, 2017 to be filed by Monday, December 11, 2017 on or before 12 noon, he has no opportunity to consult with his client who speaks only Spanish, who has no access at MGH to a telephone to contact counsel, with the assistance of a Spanish interpreter, to discuss the contents of the within

motion, who can have visits with the undersigned only by pre-approval arranged either by FCI Wyatt officials or by the US Marshals and who, therefore, can give no input in the preparation of this motion to the undersigned who is relying upon his own judgment.

18. The undersigned notes that some of the contents of this motion was discussed and agreed to in a telephone conversation with AUSA Heinrich on Friday, December 8, 2017 before the Court issued its Order ordering counsel to file this motion.

19. The undersigned notes that he attempted to reach AUSA Heinrich by telephone on Saturday, December 9, 2017 to discuss the contents of this motion but was unable to do so.

WHEREFORE, for the above reasons, the defendant respectfully requests that this motion be granted.

The Defendant
By his Attorney,

/s/ James B. Krasnoo
James B. Krasnoo
(BBO# 279300)
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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those

indicated as non registered participants via first class mail, postage prepaid,
on December 9, 2017.

/s/ James B. Krasnoo
James B. Krasnoo